

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK**

In re: ) Hearing Date: October 3, 2023 at 1:00 pm ET  
)  
The Roman Catholic Diocese of ) Hearing Location: Alexander Pirnie  
Ogdensburg, New York, ) U.S. Courthouse and Federal Building  
) 10 Broad Street, Utica, New York  
Debtor. )  
) Chapter 11

Case No. 23-60507 (PGR)

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**DECLARATION OF KAREN B. DINE IN SUPPORT OF THE LIMITED  
OBJECTION AND RESERVATION OF RIGHTS OF THE OFFICIAL  
COMMITTEE OF UNSECURED CREDITORS TO DEBTOR'S MOTION  
AUTHORIZING, BUT NOT DIRECTING, THE DIOCESE TO CONTINUE TO  
ADMINISTER THE DEPOSIT AND LOAN FUND  
AND DIOCESAN TRUST FUND IN THE ORDINARY COURSE OF  
BUSINESS AND CONSISTENT WITH PAST PRACTICE**

**DECLARATION OF KAREN B. DINE, ESQ.**

Pursuant to 28 U.S.C. § 1746, I, Karen B. Dine, hereby submit this declaration (the  
“**Declaration**”) under penalty of perjury:

1. I am of counsel at the law firm of Pachulski Stang Ziehl & Jones LLP (“**PSZJ**”) with an office at 780 Third Avenue, 36<sup>th</sup> Floor, New York, NY 10017. I am duly admitted to practice law in the United States District Courts for the Northern, Southern and Eastern Districts of New York.

2. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein. If called as a witness, I would testify as to those facts.

3. On October 19, 2023, the Official Committee of Unsecured Creditors (the “**Committee**”) in The Roman Catholic Diocese of Ogdensburg, New York (the “**Diocese**” or the “**Debtor**”) in the above-captioned case (the “**Case**”) filed an Ex Parte Motion seeking to retain PSZJ as counsel to the Committee. [Docket No. 123].

4. I submit this Declaration in support of the Limited Objection and Reservation of Rights of the Committee to *Debtor's Motion Authorizing, but not Directing, the Diocese to Continue to Administer the Deposit and Loan Fund and Diocesan Trust Fund in the Ordinary Course of Business and Consistent with Past Practice* (the "Limited Objection") filed concurrently herewith.

5. Attached hereto at **Exhibit A** is a true and correct copy of the Committee's request dated September 20, 2023 for information from the Diocese relating to the Deposit and Loan Fund and Diocesan Trust Fund.

6. Attached hereto as **Exhibit B** is a true and correct copy of the email exchange on August 30, 2023 between Jason Pomerantz and Walter Grayson.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. I executed this Declaration on September 26, 2023 at New York, New York.

/s/Karen B. Dine

Karen B. Dine, Esq.

**EXHIBIT A**

**Karen B. Dine**

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**From:** Jason Pomerantz  
**Sent:** Wednesday, September 20, 2023 5:49 PM  
**To:** Donato, Stephen; 'Sullivan, Charles'; Walter, Grayson  
**Cc:** Ilan D. Scharf; Karen B. Dine  
**Subject:** Diocese of Ogdensburg - Request for Deposit and Loan/Trust Fund Information/Documents

Steve, Charlie and Grayson,

Below are the Committee's requests for information and documents relating to the Deposit & Loan Fund and the Diocesan Trust Fund .

Please provide the requested information and documentation **on or before October 4, 2023**.

Let us know if you have any questions or if you would like to discuss any of the requests.

**Deposit & Loan Fund ("Fund")**

- 1) All formation documents (including but not limited to articles of incorporation, amendments, etc.)
- 2) All governance documents (including but not limited to bylaws, amendments, etc.)
- 3) All documents relating to loan and / or investment policies (including but not limited to handbooks, manuals, policies, procedures, guidelines, memoranda, etc.)
- 4) The "Deposit & Loan Fund Agreement" (Motion at ¶11 – including any prior versions, amendments, etc.)
- 5) The "Deposit Account Agreements" (Motion at ¶14)
- 6) All "Lending Agreements" (Motion ¶16)
- 7) All agreements between the Fund, the Diocese or any Depositor or Fund participant with NBT Bank and/or Manning and Napier Advisors
- 8) Explanation regarding the current and historical flow of funds into and out of the Fund, including any intermediary accounts involved.
- 9) Tracing analysis specifically identifying source of funds for each "fund," "subfund," "subaccount," etc. in the Fund.
- 10) Identification of accounting system(s) used for the Fund
- 11) Copy / backup of Fund accounting system data
  - a) A copy / backup of the database for the DLS Financials system.
  - b) Read only online access to the DLS Financials system.
- 12) All due diligence materials, credit reviews, evaluations, etc. relating to the Fund loan process.
- 13) All documents related to the \$3 million loan from the Fund to the Diocese made on July 5, 2023 (as identified in the Debtor's Bankruptcy Schedule E/F 3.65).
- 14) All documents in support of each of the following statements:
  - a) "Deposits to the Fund are guaranteed as to both principal and interest by the Diocese." (Motion at ¶14)

- b) “Should a Fund Borrower default on a loan, the Diocese is obligated to restore all principal and accrued interest to the Fund.” (Motion at ¶18)
- *Note:* Documents should include amounts and related detail regarding any time the Diocese has needed to “restore” any principal or accrued interest.
- c) “To protect its interests, the Diocese may use some or all of the Fund’s net assets to establish a reserve for defaulted loans.” (Motion at ¶18)
- *Note:* Documents should include all information regarding the establishment of any current or historical reserves.
- 15) Copies of the most recent bank, investment or brokerage account statements for all accounts involved in the Fund (including but not limited to accounts held at NBT Bank, Christian Brothers Investment Services (CBIS), Dimensional Fund Advisors and TIFF Realty Opportunity Fund as identified in the Debtor’s Bankruptcy Schedules A/B Part 1 Section 3 and Statement Part 11 Question 21).
- 16) Copies of the most recent “participant statements” or “fund statements” provided to each Depositor.
- 17) Summary schedule(s) for the Fund identifying:
- a) Name, alleged owner and current balance of each individual “fund,” “subfund,” “subaccount,” etc.
- b) Current balance for each loan
- c) Individual loans that are delinquent or past due, including related aging information (i.e., loan amounts that are past due by 30 days, 60 days, 90 days, more than 90 days)
- d) Write-off, forgiveness, cancellation or similar extinguishment of any Fund loans.
- 18) Service agreements, management agreements, or similar agreements detailing services to be provided by the Diocese relating to the Fund.
- 19) Sample document packets for the following transaction types (including but not limited to forms, applications, requests, etc. prepared by Depositors; copies of checks, wires, or similar transaction documents, correspondence, etc.):
- a) Deposits into the Fund
- b) Withdrawals / distributions from the Fund
- 20) All meeting minutes from the “Fund Committee” and any other similar committee, counsel, board, etc. where the Fund was discussed (Motion at ¶11).
- 21) All meeting minutes from the “Diocese’s investment advisory committee” (Motion at ¶15), as well as investment and financial materials or packets included with such meeting minutes.
- 22) Any consulting reports, strategic plans, assessments, valuations, evaluations or similar studies / reports relating to the Fund prepared by outside consultants.
- 23) Identification of any “fund,” “subfund,” “subaccount,” etc. in the Fund asserted to be restricted.
- 24) Documentation (including but not limited to wills, bequests, agreements, contracts, correspondence, etc.) in support of any restrictions asserted relating to any “fund,” “subfund,” “subaccount,” etc. in the Fund.

#### **Diocesan Trust Fund (“DTF”)**

1. All formation documents (including but not limited to articles of incorporation, amendments, etc.)

2. All governance documents (including but not limited to bylaws, amendments, etc.)
3. All documents relating to investment and / or dividend policies (including but not limited to handbooks, manuals, policies, procedures, guidelines, memoranda, etc.)
4. The Trust Agreement (Motion ¶ 20– including any prior versions, amendments, etc.)
5. The form of “Distribution Request” (Motion ¶ 24)
6. All agreements between DTF, the Diocese or any Beneficiary or DTF participant with
  - a) NBT Bank
  - b) Manning and Napier Advisors
  - c) Christian Brothers Investment Services
  - d) Dimensional Fund Advisors and
  - e) TIFF Realty Opportunity Fund
7. Explanation regarding the current and historical flow of funds into and out of the DTF, including any intermediary accounts involved.
8. Tracing analysis specifically identifying source of funds for each “Endowment” in the DTF.
9. Identification of accounting system(s) used for the DTF.
10. Copy / backup of DTF accounting system data.
11. All documents in support of the following statement found in the Motion:

“Although the DTF accounts are held in the Diocese’s name, all investments are held in trust for the benefit of the Beneficiaries.” (Motion at ¶22)
12. Copies of the most recent bank, investment or brokerage account statements for all accounts involved in the DTF (including but not limited to accounts held at NBT Bank, Christian Brothers Investment Services (CBIS), Dimensional Fund Advisors and TIFF Realty Opportunity Fund as identified in the Debtor’s Bankruptcy Schedules A/B Part 1 Section 3, Statement Part 11 Question 21 and Motion at ¶23).
13. Copies of the most recent “participant statements” or “endowment statements” provided to each Beneficiary.
14. Summary schedule for the DTF identifying:

Name, alleged owner and current balance of each individual “endowment,” etc. maintained in the DTF.
15. Service agreements, management agreements, or similar agreements detailing services to be provided by the Debtor relating to the DTF (Motion at ¶23).
16. Sample document packets for the following transaction types (including but not limited to forms, applications, requests, etc. prepared by Beneficiaries; copies of checks, wires, or similar transaction documents; correspondence; etc.):
  - a) Deposits into the DTF
  - b) Withdrawals / distributions from the DTF
17. All meeting minutes from any committee, counsel, board, etc. where the DTF was discussed.
18. All meeting minutes from the “Diocese’s investment advisory committee” (Motion at ¶15), as well as investment and financial materials or packets included with such meeting minutes.

19. Any consulting reports, strategic plans, assessments, valuations, evaluations or similar studies / reports relating to the DTF prepared by outside consultants.
20. Identification of any “Endowment” in the DTF asserted to be restricted.
21. Documentation (including but not limited to wills, bequests, agreements, contracts, correspondence, etc.) in support of any restrictions asserted relating to any “Endowment” in the DTF.

Best,

- Jason

**Jason Pomerantz**

Pachulski Stang Ziehl & Jones LLP

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**EXHIBIT B**



**Karen B. Dine**

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**From:** Walter, Grayson <walterg@bsk.com>  
**Sent:** Wednesday, August 30, 2023 3:08 PM  
**To:** Jason Pomerantz; Donato, Stephen; Sullivan, Charles  
**Cc:** Ilan D. Scharf; Karen B. Dine; Erin Gray  
**Subject:** RE: Diocese of Ogdensburg - Request for Deposit and Loan/Trust Fund Information/Documentation

Jason,

As Ilan and I discussed at the second day hearings, the Diocese does not have a detailed breakout of specific projected disbursements from the DLF and DTF. The reference in the motion to a "Fund Budget" is simply intended to impose an aggregate limit of \$1.5M in anticipated withdrawals from the DLF and \$750k in new loans anticipated for the current fiscal year, based upon parish budgets and prior experience. Similarly, the "DTF Budget" refers to a limit on anticipated distributions of principal in the amount of \$400k and a return of \$875k in investment dividends, in both cases consistent with prior practice.

I will reach out to the Diocese regarding your request for accounting information for the funds.

Thanks,

Grayson



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**Grayson T. Walter**

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**From:** Jason Pomerantz <jspomerantz@pszjlaw.com>  
**Sent:** Wednesday, August 30, 2023 10:05 AM  
**To:** Donato, Stephen <donatos@bsk.com>; Sullivan, Charles <sullivc@bsk.com>; Walter, Grayson <walterg@bsk.com>  
**Cc:** Ilan D. Scharf <ischarf@pszjlaw.com>; Karen B. Dine <kdine@pszjlaw.com>; Erin Gray <egray@pszjlaw.com>  
**Subject:** RE: Diocese of Ogdensburg - Request for Deposit and Loan/Trust Fund Information/Documentation

**External Email: Use caution before clicking links or opening attachments.**

Steve, Charlie and Grayson – I am following up on my e-mail below, in which I requested that you provide us with the Fund Budget and the DTF Budget. The request was for you to produce them by yesterday, August 29, and we have not received either of them. Please advise.

Best,

- Jason

**Jason Pomerantz**

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**From:** Jason Pomerantz

**Sent:** Friday, August 25, 2023 8:51 AM

**To:** Stephen A. Donato <[sdonato@bsk.com](mailto:sdonato@bsk.com)>; Charles Sullivan <[csullivan@bsk.com](mailto:csullivan@bsk.com)>; Grayson Walter <[WALTERG@bsk.com](mailto:WALTERG@bsk.com)>

**Cc:** Ilan D. Scharf <[ischarf@pszjlaw.com](mailto:ischarf@pszjlaw.com)>; Karen B. Dine <[KDine@pszjlaw.com](mailto:KDine@pszjlaw.com)>; Erin Gray <[egrays@pszjlaw.com](mailto:egrays@pszjlaw.com)>

**Subject:** Diocese of Ogdensburg - Request for Deposit and Loan/Trust Fund Information/Documentation

Steve, Charlie and Grayson - I am one of the PSZJ lawyers working on this matter. We are in the process of reviewing the Diocese's motion regarding the Deposit and Loan Fund. To assist in our review, please provide us with the "Fund Budget" and the "DTF Budget" referred to in the motion. Additionally, please provide us with the accounting for the Fund and for the DTF for the period January 1, 2018 through present so we can review the historic deposits and spends. I anticipate that we will need additional information and documentation as we move forward, but this will assist us in our initial review. The "Fund Budget" and the "DTF Budget" should be readily available, so please have them to us by next Tuesday, August 29. Regarding the accounting, please have that to us by close of business Tuesday, September 5.

Let me know if you have any questions or would like to discuss.

Best,

Jason

**Jason Pomerantz**

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